

## MEETING OF THE BOARD OF EQUALIZATION

APRIL 25, 2017

The Board of Equalization met per state statute on April 25, 2017 at the hour of 5:15 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary.

The Board of Equalization considered the request to receive the 2017 Annual Report from the Bismarck Assessing Division and conducted a PUBLIC HEARING for assessment protests.

Deb Goodsell, Acting City Assessor, appeared before the Board and presented the 2017 Report. The Board of Equalization received the 2017 report of the Bismarck Assessing Division. No members of the public appeared to provide comments for this item.

Commissioner Askvig made a motion to accept the report. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

The Board of Equalization adjourned at 5:23 p.m. and convened as the Board of City Commissioners.

## MEETING OF THE BOARD OF CITY COMMISSIONERS

APRIL 25, 2017

The Board of City Commissioners met in regular session on April 25, 2017 at the hour of 5:23 p.m. in the Tom Baker Meeting Room, City/County Office Building, 221 North Fifth Street, Bismarck, North Dakota. There were present: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary.

1. The Board of City Commissioners considered approval of the minutes of the meeting on April 11, 2017.

Commissioner Askvig made a motion to approve the minutes. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

2. CONSENT AGENDA

A. The Board of City Commissioners considered and approved voucher numbers 1072283 to 1072601.

B. The Board of City Commissioners reviewed the personnel actions.

C. The Board of City Commissioners considered the request for approval from the Administration Department for renewal of the following Gaming Site Authorizations from July 1, 2017 to June 30, 2018:

- Los Lunas | 108 North Mandan Street
- The Pier | 1120 Riverwood Drive
- Our Place Tavern | 1305 East Front Avenue
- The Pond | 307 North 3rd Street
- AMVETS Post 9 | 2402 Railroad Avenue

D. The Board of City Commissioners considered the request for approval from the Airport for approval of two utility easements for Runway 13/31 Reconstruction Phase 2.

As part of the Runway 13/31 Reconstruction Phase 2, utility lines will be relocated (Enclosure 1 in the materials for this agenda item). The easement shown in yellow as Easement A on the Enclosure 1 diagram is the graphic depiction of the easement document at Enclosure 2 (in the materials for this agenda item). The Easement shown in red as Easement B on the Enclosure 1 diagram is a graphic depiction of the easement document at Enclosure 3.

Easement A relocates Montana Dakota Utilities Company's gas and electrical utilities, as well as communication cables for Qwest Corporation doing business as Century Link QC. The utility lines in this easement predominately support service off the airport property. The easement includes areas inside the parcel leased to the State of North Dakota for North Dakota Army National Guard (NDANG) facilities. As a result, city staff included in the signature portion of the easement an "Acceptance by Lessee" for the portions of the easement on airport property leased to the NDANG. The wording in the easement is the standard airport easement language reviewed by the City Attorney and approved by the Board on past easements. If future airport development requires the move of the utilities in the easement, MDU and Century Link QC must move them at their expense.

Easement B provides electrical power to Federal Aviation Administration (FAA) navigation aids serving Bismarck Airport. Because the easement is essentially private service to a single customer, the standard airport easement language has been modified so that if future development requires a move of this specific service line, the Airport would pay for the move.

E. The Board of City Commissioners considered the request for approval from the Assessing Division for a tax abatement application on a Market Value

Adjustment for 649 Cottonwood Loop for 2015 and 2016. Stephen Bernard qualified for the abatement.

F. The Board of City Commissioners considered the request for approval from the Community Development Department for the following items:

- Approval for Mr. Michael Marback be re-appointed to another term on the Bismarck Board of Adjustment.

Mr. Marback's new term will expire in April of 2020.

- Approval of the request from LaSalle Shopping Center, LLC for the release of a drainage and storm sewer easement over approximately one-half of the area of Lot 1, Block 1, Hay Creek Commercial Addition.

When the plat for Hay Creek Commercial Addition was approved in 2013, portions of the platted area that were within FEMA's Special Flood Hazard Area (aka 100-year floodplain) were designated on the plat as a drainage and storm sewer easement. This area was formally removed from the floodplain, and the property owner has now requested release of the easement over the area.

Based on the findings contained in the staff report (a copy is in the agenda packet materials for this item), staff recommends approval of the resolution to release a drainage and storm sewer easement described as part of Lot 1, Block 1, Hay Creek Commercial Addition, as more particularly described in the resolution (copy in the agenda packet materials for this item).

- Permission to submit FY2018 Section 5339 and FY2018 Section 5310 Grant Applications.

The Bismarck-Mandan Metropolitan Planning Organization, on behalf of Bis-Man Transit, requests approval to submit a FY2018 Section 5339 Grant application. The total amount requested is \$84,700, with a local match of \$16,940, and includes replacement/upgrade of lighting fixtures, replacement/addition of security cameras, replacement of two-way radios, replacement of the GenFare printing/encoding machine, and replacement of a landscaping tractor. Additionally, approval is requested for the submittal of a FY2018 Section 5310 Grant application in the total amount of \$64,000, with a local match of \$26,600, and is for farebox installation and operational funding of a Return Ride Home Program. Both applications are for non-vehicle project requests.

Section 5339, Bus and Bus Facilities Program, is a capital only grant. This capital program provides funding to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities. Section 5339 funds cannot be used for operating assistance.

Section 5310, Enhanced Mobility of Seniors & Individuals with Disabilities Program, provides financial assistance for capital purchases and operating assistance for

transportation services planned, designed and carried out to meet the special transportation needs of the elderly and persons with disabilities.

The total local match amount for each project will be provided solely by Bis-Man Transit and no money will pass through the City of Bismarck. The MPO Policy Board approved both applications at their meeting on April 18, 2017. The 5339 Grant application, the 5310 Grant application, and the letter confirming Policy Board approval are included in this item's materials in the agenda packet.

G. The Board of City Commissioners considered request for approval from the Finance Department for the following items:

- The appointment of a vacated seat on the Special Assessment Commission.

Alan Butts is a member of the Special Assessment Commission but his term expires at the end of April 2017. Rick Lee has agreed to fill the position to be vacated by Mr. Butts and this term would then expire in April of 2023.

- Approval of the 2018 Budget Schedule.

May 22	Departments receive Employee Budget, Fees & Charges, and CIP Worksheets
June 5	Departments submit Employee Budget worksheets for current full-time employees to Fiscal Services
	Departments submit proposed employee changes to Human Resources
June 12	Departments e-mail updated Fees & Charges worksheets and enter revenue projections in the New World System
June 19	Departments e-mail technology request forms to Director of Finance
June 26	Departments e-mail Capital Improvement Project Forms to Fiscal Services
	Departments receive SEAs, Organizational Charts and narratives of mission statement and goals and objectives
July 5	Departments receive budget forms, guidelines and instructions
	General Fund Departments receive base budget allocations from Finance

July 14	Departments enter budget expenditures in New World System
	Departments e-mail (if applicable) priority initiative requests new or changes for employees, base funding and one-time expenditures to Director of Finance
July 19-21 & 24-25	Budget Committee schedules meeting with Departments on priority initiatives requests for employees, base and/or one-time budget expenditures and other budget related issues and with Human Resources on employee and benefit costs.

H. The Board of City Commissioners considered the request for approval from the Police Department for the following items:

- Permission to solicit donations to support the 2017 Annual Bismarck Police Department Benefit Golf Tournament.

This event is scheduled for July 13, 2017 at the Tom O’Leary Golf Course. This year will mark the 20<sup>th</sup> Anniversary of the Bismarck Police Department Benefit Golf Tournament and the proceeds from the tournament are donated to the Crisis Care Chaplaincy (Bismarck Law Enforcement Chaplaincy) Benefit Fund. The purpose of the Benefit Fund is to provide financial donations to persons in organizations served by the Crisis Care Chaplaincy who have special needs due to an unusual personal or family situation such as a serious medical condition. The donations that will be sought include financial support to defray expenses, food and non-alcoholic beverages for the tournament picnic, as well as door prizes for the participants.

- Permission to sell one (1) decommissioned vehicle (2003 Ford Taurus) and eight (8) forfeited vehicles through either Northland Auto Auction in Mandan or by another public market.

As in the past, Public Works was contacted to see if they were interested in the decommissioned vehicle, a 2003 Ford Taurus, and they advised they were not interested. This vehicle needs repairs that will cost well above its value. This vehicle was purchased using drug asset forfeiture funds, so proceeds will be deposited back in the Asset Forfeiture account. This vehicle will be replaced through this year’s budget.

The following vehicles were forfeited to the Bismarck Police Department through the formal court process due to the vehicles being used in felony cases:

- 2005 Chevrolet Aveo
- 2014 Pontiac Sunfire
- 2013 Dodge Avenger
- 2006 Cadillac DTS
- 2002 Mercedes Benz C230

➤ 2004 Ford Explorer

Upon the sale of the vehicles, 20% of the net proceeds are distributed to the Burleigh County State's Attorney based on the existing agreement concerning allocation of property forfeitures. The remaining 80% will be deposited in the Police Department's Asset Forfeiture account.

The following vehicles were forfeited to the Bismarck Police Department through the formal court process due to the vehicles being used in felony Drug Trafficking cases:

- 2005 Chevrolet Aveo
- 2014 Pontiac Sunfire
- 2013 Dodge Avenger
- 2006 Cadillac DTS
- 2002 Mercedes Benz C230
- 2004 Ford Explorer

Upon the sale of the vehicles, 20% of the net proceeds are distributed to the Burleigh County State's Attorney based on the existing agreement concerning allocation of property forfeitures. The remaining 80% will be deposited in the Police Department's Asset Forfeiture account.

The following vehicles were forfeited to the Bismarck Police Department through the formal court process due to the vehicles being used in felony cases:

- 1990 Ford Econoline Van
- 2004 Nissan Maxima SE/SL

Upon the sale of the vehicles, 20% of the net proceeds are distributed to the Burleigh County State's Attorney based on the existing agreement concerning allocation of property forfeitures. The remaining 80% will be deposited in the Police Department's General Fund account.

I. The Board of City Commissioners considered the request for approval from the Public Works Service Operations Department for the following items:

- Approval of an emergency purchase of a traffic signal controller cabinet destroyed due to a traffic accident at North Washington St and Century Ave.

On April 4, 2017, an automobile accident destroyed the traffic signal controller cabinet and concrete base at the intersection of North Washington Street and Century Avenue. Four-way stop signs were erected immediately after the accident and a temporary traffic signal controller was rented and installed to put the intersection back into temporary operation. A decision to make an emergency purchase to replace the traffic signal controller was made by the Public Works Service Operations Director. This was done to return the intersection to its original operating capacity as quickly as possible, due to the volume of traffic that utilizes this intersection. The traffic signal cabinet vendor was selected because they provided the original cabinet and it is able to communicate with the cameras existing at the intersection. The cost to replace the traffic signal controller

was \$27,300. Additional costs will be incurred by Public Works and charged to the vehicle causing the accident for the concrete traffic signal controller base, installation of temporary stop signs and traffic control devices, rental of the temporary traffic signal cabinet and city staff and equipment charges.

City staff requests an exception to the normal competitive bidding process, this notification is required based on ordinance 7-01-04.

- Permission to sell surplus vehicles at the City Auction.

The department is asking for permission to sell the following surplus vehicles at the annual City Auction:

- 2003 Chevrolet ½ ton 2WD with 105,000 miles
- 2005 Chevrolet ½ ton 2WD with 128,000 miles

J. The Board of City Commissioners considered the request for approval from the Public Works Utility Operations Department for approval of the Professional Contract Change Order 5 with AE2S for the Waste Water Treatment Plant Trickling Filter Improvement Project.

This change order amends the existing engineering agreement for the design and bidding services to add the construction management phase for the trickling filter rehab project to the contract. The Phase II Construction and Post Construction has a rough estimate of \$470,000; however, it is expected there will be cost deductions from the Phase I work that will be more certain following the startup of the new trickling filter in May through July 2017.

City staff recommends recognition of the Phase II work within the engineering contract through this change order and then have a review of the contract in August 2017 to add additional contract funding. Staff requests approval of Professional Services Change Order 5 with AE2S to add Phase II Construction and Post Construction services.

Commissioner Askvig made a motion to approve the consent agenda. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

## REGULAR AGENDA

3. Public comment (restricted to items on the Regular Agenda, excluding public hearing items).

The following persons appeared before the Board to provide public comment: Item #12: Tom Mayer, Kim Badenhop, Susan Dingle, Kevin Ruhland; Item #4 - Kate Herzog, John Busse, Tanya Jo Smith, Kelsey Ruhland, and David Diebel; Item #12 -

PERSONS APPEARING	THEIR REMARKS
Tom Mayer, Mandan Street resident	Item #12; speaking in opposition to reconsidering the denial of the appeal at their last meeting; this isn't personal and about personalities; neighbors would oppose building on this lot no matter who wanted to build on it; read memo from Keith Demke addressed to Mayor Seminary and the City Attorney from May 16, 2015 and said he and Planning staff feel the lot is too small; so he's asking what is different now in 2017 than it was in 2015; there should be consistency; spoke about empty lot at 210 Avenue C East; it's the same sized lot as 717 N Mandan St; concerns about private property rights; urge Board to follow zoning rules that require a minimum of 5,000 square feet lot size to build a residence; urge Board to uphold the denial by the Board of Adjustment.
Kim Badenhop, speaking on behalf of Andrea Tillman	Item #12; read statement for Ms. Tillman who is out of town but submitted it to the city this afternoon; she had a similar situation with her property back in the 1950's; she resides at 218 West Ave D; she had a negative variance on her property but she and her neighbor get along with each other and share expenses; worried about effect this will have on future variance requests in this area. As far as Item #4, Ms. Badenhop would like to recommend that they don't block the box signs added to Main Street.
Susan Dingle, Mandan Street resident	Item #12; done some research on smaller houses on smaller lots; found six houses plus 717 N Mandan Street that have lot sizes under 4,000 square feet; those six houses were built between 1900 and 1939 which predates current ordinances; 206 W Ave D was built in 1939 and it's lot is 1,983 square feet; 404 W Avenue F's empty lot is 42 by 125 square feet, equaling 5,250, and it remains empty; Cathedral District



	<p>may have already done their infill projects with houses built over 50 years; some houses are considered multi-family by being duplexes but only have one family living in them; house sizes have changed over time; what if this house was sold, what would future owner try to do with it.</p>
Kevin Ruhland, resident on Teton Ave	<p>Item #12; in support of variance; if a single-family home is built on this lot, it will be more valuable than vacant lot; if designed well and built with quality materials, adjacent properties will increase in their value; this project utilizes existing infrastructure; as existing infrastructure wears out, there will be an additional homeowner to help pay for the special assessment costs;</p>
Kate Herzog, Downtowners Association	<p>Item #4 – Supports changing Chancellor Square to two-way traffic; lots of good reasons to go to two-way traffic including traffic-calming, elevated tax base, higher real estate values, easier to navigate; in this case they think they could convert lost parking spaces to parking for bicycles and motorcycles; it works with the Main Avenue three-lane conversion; they are asking the Board to make the Main Avenue conversion to three lanes permanent and maintain it with frequent paint; no permanent signal changes be made to Main Avenue if Chancellor Square returns to two-way traffic; study how the two-way traffic on Chancellor Square affects Main Avenue and bring findings back to Board at a later date; suggests expanding loading zone on the 400 block for Transit's use at the Patterson to make room for two Paratransit vehicles.</p>
John Busse, Bismarck resident	<p>Item #4 – He travels for his job but sometimes it's difficult to travel down Main Avenue; he took him almost 15 minutes to get here tonight from Simonson's on Main; he opposes the change to three-lanes; he thinks the four-lane was moving traffic better and quicker; parking is tighter when it's four lanes; he doesn't see that many</p>

	people turning left to hold the traffic up on the inside lane.
Tanya Jo Smith, on behalf of Go Bismarck Mandan	Item #4 – She will be paraphrasing letter from Jan Stankiewicz; strongly supports implementation of Main Avenue reconfiguration to three-lanes from four-lanes and conversion of one-way streets in Chancellor Square to two-way streets; this is an opportunity to make downtown safer for pedestrians, cyclists and motorists and allows for multiple forms of transportation; giving citizens safer ways to be more active with increase their quality of life; they support making the conversion on Main Street permanent and support making the traffic on Chancellor Square two-way traffic instead of one-way for a safe, walkable community.
Kelsey Ruhland, lives on Teton Ave	Item #4 – Supports conversion of Main Avenue from four-lane to three-lanes; as a business owner on Main Avenue, she is directly affected by the conversion and has seen many benefits; this has been a successful traffic-calming measure; slowing traffic on Main has made it safer for pedestrians, significantly decreased road noise, and made it safer for people getting in and out of parked vehicles; overall it makes Main Avenue more comfortable, enjoyable and a safer place to live, eat, shop, and work; it should be for people, not just a thoroughfare for cars.
David Diebel, 212 E Main Avenue	Item #4 - Small business owner on East Main Avenue; co-founder of D&N Cinematics, a video production business; their business has always been downtown from 4 <sup>th</sup> Street to Broadway and finally they are on Main Street; the trial of the three-lane conversion definitely played a role in their decision to purchase the property on Main Avenue; they've noticed numerous benefits but the primary benefit they've noticed is safety; feedback from their customers about how much safer they feel is great; he personally thinks the flow is better with the three lanes because

	<p>traffic isn't backing up with people stuck behind those people turning left now that there's a dedicated turning lane; loves the change in downtown since he moved back here in 2010; noticed that the dangerous driving/drag racing down Main has been greatly reduced with the reduction to three lanes from four.</p>
Eugene Lehr, lives near 717 N Mandan St	<p>Item #12 - Most people think of the property at 717 N Mandan Street as a vacant lot but to him it's his backyard; it was taken from his lot and he has no yard except for that lot; he doesn't think the city handled this properly; if you view the block from overhead, his house is the only one on a tiny lot so he considers this lot his backyard; this whole thing should never have gone this far; when the property was condemned, it should've been returned to him.</p>
Anne Cleary, owner of 717 N Mandan St	<p>Item #12 – At the original meeting, there was a lot of discussion about design and meeting with my neighbors; they did create four different designs; they reached out to the neighbors and had a meeting of their own at the library; she then passed around to the Board some of the comment cards that were filled out by the neighbors at that meeting; 11 of her neighbors representing seven homes were there, which included spouses; she received some interesting and positive feedback at that meeting; there was also an additional meeting held which she provided the designs for that she did not host; she attended the Mayor's Summit and heard the governor talk about the Main Street initiative and infill; when she applied for these variances she just wanted to build a small house on a small piece of property in a neighborhood that she grew up in and the impact to the City is bigger than she assumed; after her item was put on the agenda, there were letters, from both sides, that were passed around her neighborhood and she passed them on to the commissioners to look at; letter</p>

	<p>(on pink paper) was sent by a friend in the district who describes the lot as a green space, references the survey that was taken, and portrays the project as a single-handedly ruining the values of the neighborhood; the other letter was written by a different group of neighbors and how this project affects private property rights, not just her rights but those of their rights as well; some of her neighbors talk about the precedent this sets if this is passed; they say it will encourage similar builds and variances in or around the district but as far as she knows, there are no other vacant lots in the neighborhood; there's a variance that was granted for a property that's probably two or three blocks outside of the Cathedral District with a very large addition and she showed the Board a picture of it; if they're worried about the precedent, it's not being stopped outside of the Cathedral District; she knew there would be opposition but all she wanted to do was build a small house on a small piece of property she owns; she realized there are bigger issues at play like affordable housing, infill and private property rights which are important to her but also to the community.</p>
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4. The Board of City Commissioners considered the request for approval from the Engineering Department for the following items:

- Update relating to the Main Avenue 4-lane to 3-lane Conversion Demonstration Project.
- Report relating to converting the downtown one-way system (Chancellor Square) to a two-way traffic flow.

Gabe Schell, City Engineer, appeared before the Board and presented information for an update on the Main Avenue Conversion Demonstration Project (from the materials for this item in the agenda packet). Mr. Schell's recommendation is for a permanent configuration of a three-lane section on Main Avenue from Mandan Street through Sixth Street.

Mr. Schell also made two additional recommendations based on public input received (included in the materials for this item in the agenda packet). The first is to conduct a trail of bagging the existing signals at 4<sup>th</sup> Street/Main Avenue and 6<sup>th</sup> Street/Main

Avenue to improve progression through the corridor and replacing with stop control on the minor approach. The second recommendation is to implement a pre-timed protected/permissive left turn phase on Main Avenue at 3<sup>rd</sup> Street for westbound traffic. Preliminary costs to install permanent grooved plastic pavement markings for a three-lane section would cost \$225,000. Costs to install permanent grooved plastic pavement markings for a four-lane section would cost \$110,000. Either way, they recommend a more permanent pavement marking to be installed no matter which lane configuration is decided on.

There was discussion between Mr. Schell and the Board relating to: clarifying the stop signs on 4<sup>th</sup> and 6<sup>th</sup> Streets; how potential Chancellor Square changes would affect Main Avenue; how would proposed changes to Chancellor Square affect Main Avenue if it went back to four lanes; efficiency of moving traffic on Main Avenue when it was a four-lane; safety versus efficiency on Main Avenue; commissioners have received lots of suggestions about Main Avenue, Chancellor Square and variations of both; issues with traffic being backed up with only three-lanes; safety is number one priority in traffic engineering; 25% of reduction in crashes with the lane-change; how to fund the recommended improvements; and actuated light option and cost.

Commissioner Askvig asked if the Board could wait and hear Mr. Schell's information on the Chancellor Square item before making any decisions since they are related. Commissioner Marquardt said the Budget Committee will meet for the first time mid-July.

Mr. Schell then presented the information to the Board about converting one-ways to two-way traffic in Chancellor Square with information that was included in the agenda packet for this item. There was discussion between Mr. Schell, Kate Herzog, Finance Director Sheila Hillman and the Board relating to: length of this construction project; access to the area during construction; removal of lights on 5<sup>th</sup> Street; difference with pedestrian safety for one-way versus two-way traffic; shifting back to two-way traffic and losing parking spaces; little retail traffic along Chancellor Square right now; will need to rely on parking ramps; perhaps some motorcycle and bike parking in the twelve lost parking spots; funding for Chancellor Square this construction season;

Commissioner Askvig made a motion to approve the Chancellor Square conversion, up to \$50,000 from Commissioners Special Roads Project, and have Engineering staff look into how that conversion will affect recommendations already made on 4<sup>th</sup> and 6<sup>th</sup> Streets, as well as Main Avenue, and bring forward recommendations as part of the budget process. Commissioner Oban seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Guy, Oban, and President Seminary. Nays: Commissioner Marquardt, the motion carried.

5. The Board of City Commissioners considered the request for approval from the Engineering Department for approval of the following relating to Street Improvement District 17-512 (street and water main replacement and related items):

- Resolution Receiving Bids and Ordering Preparation of the Engineer's Statement.
- Public Hearing on Resolution of Necessity.
- Resolution Awarding Contract.

The President of the Board of City Commissioners announced the hour had arrived for the opening of bids for the construction of Street Improvement District Five Hundred Twelve (512). The Assistant City Administrator presented an affidavit showing publication in the official newspaper of advertisement for bids, the affidavit was examined, found satisfactory and was directed to be placed on file in the office of the City Administration.

The City Engineer then reported that four sealed bids for the construction of said improvement had been filed in his office prior to the time of this meeting, pursuant to said advertisement, which bids were publicly read and considered, and upon motion duly made, seconded and carried, said bids were directed to be entered upon the minutes of this meeting. The names of each of the bidders and the estimated cost under terms of each bid based on prices proposed by the bidder and quantities estimated by the City Engineer are as follows:

<b>BIDDER</b>	<b>BID AMOUNT*</b>
Northern Improvement Co.	\$4,543,633.05
Mariner Construction	\$4,204,008.32
Wagner Construction	\$5,247,350.77** <del>\$5,247,349.49</del>
Quam Construction	\$5,224,881.13
* Engineer's Estimate = \$4,794,700.48	
** Corrected upon verification of bids	

Commissioner Askvig introduced the following resolution and moved its adoption:

**RESOLUTION RECEIVING BIDS  
AND ORDERING PREPARATION OF ENGINEER'S STATEMENT  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED TWELVE (512)**

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. The Assistant City Administrator is hereby directed to enter upon the minutes of this meeting all bids received for the work and material required for the work to be done in Street Improvement District Five Hundred Twelve (512).

2. The engineer is hereby directed to make a careful and detailed statement of the estimated costs of said bids and upon receipt of the same the Board of City Commissioners shall take such other and further action with reference to said bids as shall be deemed necessary and expedient.

Commissioner Marquardt seconded that motion. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

The President of the Board of City Commissioners announced the hour had arrived for the hearing on the Resolution of Necessity in and for Street Improvement District Five Hundred Twelve (512). The records show that an affidavit is on file in the office of City Administration showing publication had been made in this regard.

The President of the Board of City Commissioners then directed the Special Assessment Analyst to present all written protests against the making of such improvement which had been filed in his office within the period of thirty (30) days from and after the first publication in accordance with provisions of Section 40-22-17 of the North Dakota Century Code as amended. The Special Assessment Analyst reported that the only protests so filed were those signed by the following persons, claiming to be the owners of property described opposite their names:

<u>NAMES OF PERSONS PROTESTING</u>	<u>DESCRIPTION OF PROPERTY</u>
RRKUNTZ PROPERTIES LLC	210 S 2 <sup>ND</sup> ST
DARLING, ALLEN & BEVERLY	412 GARDEN DR
ISAAK, CAROL LEE & KULACKOSKI, MAURICE	227 W SWEET AVE

\*Percentage of protests totaling 0.65%\*

The protests were then presented to, examined and considered by the Board of City Commissioners. Signers of protests and all other persons present affected by the proposed improvement as property owners or otherwise, were then afforded an opportunity to be heard by the City Commissioners as to the necessity and desirability of making said improvement as described in said resolution. The following persons appeared and the substance of their views expressed by them were as follows:

<u>NAMES OF PERSONS APPEARING</u>	<u>REMARKS</u>
(No persons appeared)	

The Special Assessment Analyst reported on the area presented by the protests against the improvement proposed for Street Improvement District Five Hundred Twelve (512).

Commissioner Askvig introduced the following resolution and moved its adoption:

RESOLUTION DETERMINING INSUFFICIENCY OF PROTESTS FOR  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED TWELVE (512)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. This Board by resolution declared the necessity of an improvement in Street Improvement District Five Hundred Twelve (512) which resolution has been published in the official newspaper of the City as required by law. The owners of property liable to be specially assessed for said improvement have been afforded an opportunity to file written protests with the Special Assessment Analyst protesting said improvement, and this Board has had its first meeting after expiration of thirty (30) days from the publication of said resolution having considered the sufficiency of all protests filed within said period.

2. Having further heard and considered all views presented by all interested persons at such hearing, and being fully advised in the premises, it is hereby found and determined that any protests against said improvement filed within the time and within the manner prescribed by law are not sufficient to bar against the proceeding further therewith, and that the City and this Board of City Commissioners are therefore authorized to cause the improvement to be made, and to contract and levy special assessments therefore, pursuant to and in accordance with provisions of Chapter 22, Title 40, North Dakota Century Code, as amended.

Commissioner Marquardt seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Naves: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Askvig introduced the following resolution and moved its adoption:

RESOLUTION AWARDING CONTRACT FOR THE CONSTRUCTION OF  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED TWELVE (512)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Notice of advertisement for bids for the construction of Street Improvement District Five Hundred Twelve (512) having been duly published, and all bids received pursuant to said notice having been considered, it is hereby found and determined that the lowest responsible bidder whose bid complies with law and the terms of said advertisement is Mariner Construction, of Bismarck, North Dakota, and the estimated bidder's proposal for the construction of the work is \$4,204,008.32.

2. Upon the furnishing by the successful bidder of a contractor's bond in the sum not less than the amount of the contract as above estimated, with a surety company authorized to do business in the State of North Dakota, conditioned as required by the provisions of Section 40-22-31 of the North Dakota Century Code, which bond shall be



furnished within ten days from the date hereof, a contract for the performance of said work pursuant to the plans and specifications on file in the office of City Administration shall be made and executed by the President and countersigned by the Assistant City Administrator.

3. The Special Assessment Analyst is hereby authorized and directed to retain the bidder's bond furnished by the successful bidder pending the approval of the contractor's bond and the execution of the construction contract, and to return the bonds of the other bidders forthwith.

Commissioner Marquardt seconded that motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

6. The Board of City Commissioners considered the request for approval from the Engineering Department for the Public Hearing on Resolution of Necessity to Street Improvement District 17-514.

The President of the Board of City Commissioners announced the hour had arrived for the hearing on the Resolution of Necessity in and for Street Improvement District Five Hundred Fourteen (514). The records show that an affidavit is on file in the office of City Administration showing publication had been made in this regard.

The President of the Board of City Commissioners then directed the Special Assessment Analyst to present all written protests against the making of such improvement which had been filed in his office within the period of thirty (30) days from and after the first publication in accordance with provisions of Section 40-22-17 of the North Dakota Century Code as amended. The Special Assessment Analyst reported that the only protests so filed were those signed by the following persons, claiming to be the owners of property described opposite their names:

<u>NAMES OF PERSONS PROTESTING</u>	<u>DESCRIPTION OF PROPERTY</u>
33 CLUB LLC	1625 E MAIN AVE
33 CLUB LLC	1603 E MAIN AVE
ADVANTAGE ENTERPRISES	2009 E MAIN AVE
ANDERSON, PETER J	1820 E MAIN AVE
BARTH, DAVID K & DEICHERT, RYAN	1401 E MAIN AVE
BASHUS, JAMES H	1500 E MAIN AVE
BECKER SORENSON PROPERTIES LLC	2021 E MAIN AVE
BERGE, NORMAN R & PAMELA R	1505 E MAIN AVE
BISMARCK MOTEL PROPERTIES LLC	2207 E MAIN AVE
BISMARCK PARK AVENUE PROP LLP	1421 E MAIN AVE
BRICKS N IVY LLC	2111 E MAIN AVE
CAUFIELD, JEROME P	1418 E MAIN AVE
D MYERS PROPERTIES LLP	1730 E MAIN AVE

DASF LLP	2200 E MAIN AVE
DDB RENTALS LLC	2207 E MAIN AVE
FRENCH, WADE & LYNCH, BRANDI	1801 E MAIN AVE
GLATT, JAMES G & ALVINA	1915 E MAIN AVE
GREENWOOD, CLEO A	2219 E MAIN AVE
HARTEL, MIKE	901 E MAIN AVE
JOHNSON, SCOTT A	1700 E MAIN AVE
KSSLSS LLP	2300 E MAIN AVE
KSSLSS LLP	1612 E MAIN AVE
MEISNER, JAMES W & DOLORES A	925 E MAIN AVE
MIKE HARTEL PROPERTIES LLC	917 E MAIN AVE
MINDEMAN, DARREL	1019 E MAIN AVE
MOHLER, J	2413 E MAIN AVE
MOHLER, J	2405 E MAIN AVE
MOSBRUCKER PROPERTIES LLC	1701 E MAIN AVE
MOSBRUCKER PROPERTIES LLC	1701 E MAIN AVE
NEFF FAMILY LLC	1400 E MAIN AVE
OLSON, JOSHUA J	2103 E MAIN AVE
BTND LLC	1320 E MAIN AVE
PRAIRIE CHICKEN INC	2511 E MAIN AVE
RAUSCH, THOMAS C & TWYLLA J	1125 E MAIN AVE
SIMONSON STATION STORES	1011 E MAIN AVE
TERWILLIGER, KEVIN	1606 E MAIN AVE
TURITTO, ANTHONY G & LORI	1131 E MAIN AVE
WFP INC	2306 E MAIN AVE

\*Percentage of protests totaling 41.73%\*

Sheila Hillman, Finance Director, appeared before the Board. She said prior to the protest period deadline, there was misinformation provided to some of the individual property owners on the sufficiency of the protests. Given that information, she asks that the Board consider the following options:

- 1) Protests are legally insufficient and approve the Resolution of Necessity to proceed with the district.
- 2) Accept the protests, cancel the bids and terminate the district.
- 3) Accept the protests and recreate the Resolution of Necessity for the district.

In discussion with legal counsel, it is ultimately the Board's decision how they want to proceed with the district. Given the miscommunication, staff suggests at the conclusion of the public hearing, that the Board approve either option 2 or 3. Commissioner Guy asked if the Board chooses option 3, does that mean we recreate the resolution, send out new letters, another protest period begins and they would have to protest again. Ms. Hillman said that is correct. Commissioner Askvig asked if we have to go forward with the public hearing if the Board chooses to go with option 3. City Attorney Charlie Whitman said the issue here was created by the inclusion/exclusion of railroad property

so adjustments need to be made. He feels it would be best to start over. Commissioner Guy asked how the city would assess the railroad property. Mr. Whitman said his understanding is we haven't levied assessments against railroad properties in the past but have recently found out that we can assess them in some fashion. Ms. Hillman said the railroad property was included and the city assumed the cost of that assessment, it wasn't assessed to the remaining property owners.

The protests were then presented to, examined and considered by the Board of City Commissioners. Signers of protests and all other persons present affected by the proposed improvement as property owners or otherwise, were then afforded an opportunity to be heard by the City Commissioners as to the necessity and desirability of making said improvement as described in said resolution. The following persons appeared and the substance of their views expressed by them were as follows:

NAMES OF PERSONS APPEARING	REMARKS
Pam Berge	Has business on Main Street; spearheaded the effort to protest the district; she was told as recently as yesterday that the City paid the railroad's portion of the assessment; on the morning of April 19 <sup>th</sup> , she was told they had enough signatures to protest out (72%); later that day she was informed that it was on hold because they had to seek a legal opinion from Fargo; has signatures based on square footage and how much square footage does the railroad have; told yesterday by Fiscal Service they aren't going by percentages anymore; so what are we basing this off of if the percentages are thrown out; what is wrong with the road; the costs are substantial and a lot of people use Main Avenue; city's throw in was 25%; no one objects to paying their fair share for 57 property owners.
Jerry Caufield	Owner of Spas Etc. on Main Avenue; biggest problem here is the funding; doesn't think the road is that bad; it's a substantial cost; basically a 30% tax increase for him; they're collecting sales tax on all of their sales; three employees but business has gone down from 2012; this is his job; tore down old building and bank put up his building; he's in the building so he doesn't have to pay \$8,000-\$10,000 a month in rent; he didn't buy it because he's wealthy; \$31,000 is the cost

	<p>of a new service van which he is ready to replace because he bought it in 2011, which will serve him for the next 10 years; last year one of his employees purchased three vehicles in this town and he purchased a boat a few years ago; they spend money in this town; need to figure out the funding; willing to pay his share but a fair amount; 99% of the traffic on Main Avenue is not stopping at their businesses; they are using Main to go somewhere else; could we save some of the sales tax money; it's a heavy burden for these businesses on Main.</p>
Jim Bashus	<p>Jim's Used Cars on Main; thinks their portion was \$47,000; doesn't understand when it changed from a state highway to a city road; he believes last time it was done with DOT funds as a highway project; businesses on Main have been hurt by the oil downturn as other tax income; doesn't see where the need to redo all of Main Avenue is; why wouldn't we wait until it needs more work; the Renaissance Zone and this district end at the same spot on 9<sup>th</sup>; it shows that downtown is favored while going east is charged.</p>
Tom Rausch	<p>Property owner on Main Street; received letter notifying them that improvements would be made and protests could be made; quoted letter regarding amount of protests needed to protest out; he's unhappy with the earlier testimony about the confusion; to be told conflicting information about if they did or didn't have enough; confused about the railroad property; if the City can assess the railroad property now does that also give the railroad the right to protest; they made an effort to get to the proper people for the property owner, St. Alexius, to find out if they were aware and would like an opportunity to at least pursue that; to proceed with this at this time would be an injustice to those who made a sincere effort to follow the instructions to get a 50% protest rate; this should be redone.</p>

The Special Assessment Analyst reported on the area presented by the protests against the improvement proposed for Street Improvement District Five Hundred Fourteen (514).

Commissioner Guy made a motion to accept the protests, cancel the bids and terminate the district to start over with the process (option 2). Commissioner Marquardt seconded that motion on the foregoing resolution. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

7. The Board of City Commissioners considered the request for approval from the Engineering Department for the following relating to Street Improvement District 17-515 (new street lighting and appurtenances):

- Resolution Receiving Bids and Ordering Preparation of the Engineer's Statement.
- Public Hearing on Resolution of Necessity.
- Resolution Awarding Contract.

The President of the Board of City Commissioners announced the hour had arrived for the opening of bids for the construction of Street Improvement District Five Hundred Fifteen (515). The Assistant City Administrator presented an affidavit showing publication in the official newspaper of advertisement for bids, the affidavit was examined, found satisfactory and was directed to be placed on file in the office of the City Administration.

The City Engineer then reported that five sealed bids for the construction of said improvement had been filed in his office prior to the time of this meeting, pursuant to said advertisement, which bids were publicly read and considered, and upon motion duly made, seconded and carried, said bids were directed to be entered upon the minutes of this meeting. The names of each of the bidders and the estimated cost under terms of each bid based on prices proposed by the bidder and quantities estimated by the City Engineer are as follows:

<b>BIDDER</b>	<b>BID AMOUNT*</b>
Fargo Electric Company	\$824,495.30** <del>\$824,495.80</del>
Edling Electric	\$748,739.45
Fetzer Electric	\$761,567.45
Strata Corporation	\$887,576.60
Denny's Electric	\$748,018.45
* Engineer's Estimate = \$868,603.26	
** Corrected upon verification of bids	

Commissioner Askvig introduced the following resolution and moved its adoption:

#### RESOLUTION RECEIVING BIDS

AND ORDERING PREPARATION OF ENGINEER'S STATEMENT  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED FIFTEEN (515)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. The Assistant City Administrator is hereby directed to enter upon the minutes of this meeting all bids received for the work and material required for the work to be done in Street Improvement District Five Hundred Fifteen (515).
2. The engineer is hereby directed to make a careful and detailed statement of the estimated costs of said bids and upon receipt of the same the Board of City Commissioners shall take such other and further action with reference to said bids as shall be deemed necessary and expedient.

Commissioner Guy seconded that motion. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

The President of the Board of City Commissioners announced the hour had arrived for the hearing on the Resolution of Necessity in and for Street Improvement District Five Hundred Fifteen (515). The records show that an affidavit is on file in the office of City Administration showing publication had been made in this regard.

The President of the Board of City Commissioners then directed the Special Assessment Analyst to present all written protests against the making of such improvement which had been filed in his office within the period of thirty (30) days from and after the first publication in accordance with provisions of Section 40-22-17 of the North Dakota Century Code as amended. The Special Assessment Analyst reported that the only protests so filed were those signed by the following persons, claiming to be the owners of property described opposite their names:

<u>NAMES OF PERSONS PROTESTING</u>	<u>DESCRIPTION OF PROPERTY</u>
(No written protests)	

The protests were then presented to, examined and considered by the Board of City Commissioners. Signers of protests and all other persons present affected by the proposed improvement as property owners or otherwise, were then afforded an opportunity to be heard by the City Commissioners as to the necessity and desirability of making said improvement as described in said resolution. The following persons appeared and the substance of their views expressed by them were as follows:

<u>NAMES OF PERSONS APPEARING</u>	<u>REMARKS</u>
(No persons appeared)	

The Special Assessment Analyst reported on the area presented by the protests against the improvement proposed for Street Improvement District Five Hundred Fifteen (515).

Commissioner Askvig introduced the following resolution and moved its adoption:

RESOLUTION DETERMINING INSUFFICIENCY OF PROTESTS FOR  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED FIFTEEN (515)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. This Board by resolution declared the necessity of an improvement in Street Improvement District Five Hundred Fifteen (515) which resolution has been published in the official newspaper of the City as required by law. The owners of property liable to be specially assessed for said improvement have been afforded an opportunity to file written protests with the Special Assessment Analyst protesting said improvement, and this Board has had its first meeting after expiration of thirty (30) days from the publication of said resolution having considered the sufficiency of all protests filed within said period.

2. Having further heard and considered all views presented by all interested persons at such hearing, and being fully advised in the premises, it is hereby found and determined that any protests against said improvement filed within the time and within the manner prescribed by law are not sufficient to bar against the proceeding further therewith, and that the City and this Board of City Commissioners are therefore authorized to cause the improvement to be made, and to contract and levy special assessments therefore, pursuant to and in accordance with provisions of Chapter 22, Title 40, North Dakota Century Code, as amended.

Commissioner Guy seconded the motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

Commissioner Askvig introduced the following resolution and moved its adoption:

RESOLUTION AWARDING CONTRACT FOR THE CONSTRUCTION OF  
STREET IMPROVEMENT DISTRICT FIVE HUNDRED FIFTEEN (515)

BE IT RESOLVED by the Board of City Commissioners of the City of Bismarck, North Dakota, as follows:

1. Notice of advertisement for bids for the construction of Street Improvement District Five Hundred Fifteen (515) having been duly published, and all bids received pursuant to said notice having been considered, it is hereby found and determined that the lowest responsible bidder whose bid complies with law and the terms of said

advertisement is Denny's Electric, of Dickinson, North Dakota, and the estimated bidder's proposal for the construction of the work is \$748,018.45.

2. Upon the furnishing by the successful bidder of a contractor's bond in the sum not less than the amount of the contract as above estimated, with a surety company authorized to do business in the State of North Dakota, conditioned as required by the provisions of Section 40-22-31 of the North Dakota Century Code, which bond shall be furnished within ten days from the date hereof, a contract for the performance of said work pursuant to the plans and specifications on file in the office of City Administration shall be made and executed by the President and countersigned by the Assistant City Administrator.

3. The Special Assessment Analyst is hereby authorized and directed to retain the bidder's bond furnished by the successful bidder pending the approval of the contractor's bond and the execution of the construction contract, and to return the bonds of the other bidders forthwith.

Commissioner Guy seconded that motion on the foregoing resolution. Upon roll call, the Commissioners voted as follows. Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried and said resolution was declared duly passed and adopted.

8. The Board of City Commissioners considered the request for approval from the Administration Department to receive a report and recommendation from the Infrastructure Task Force.

Commissioner Marquardt presented information to the Board that was contained in the materials for this item in the agenda packet. There was discussion between the Board, Brian Ritter (Task Force member), and Sheila Hillman (City Finance Director), relating to: capping the mill and paying for projects; options for sales tax; new roads versus existing roads needing expansion or widening; was the list unanimous amount the task force members; thanks to the task force for their hard work; asked for clarification of arterial improvement; redirecting special assessment buydown; sales tax issues need to go to the taxpayer for their decision.

Commissioner Marquardt made a motion to cap the funding of the 25-mill property tax buydown at the 2018 amount estimated to be \$9.2 million and put on the June 2018 ballot, redirect special assessment buy-down to new arterial roadway improvements, per the recommended project listing developed by the task force to the top 14 projects and reassess funding for arterial roadways after the June 2018 election in the context of previously discussed options and emerging state or national trends or programs. The motion died for the lack of a second.

Commissioner Askvig made a motion to receive the Infrastructure Task Force report and take into consideration the recommendations. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners



Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

9. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING and second reading of Ordinance 6252 relating to Sunday Alcohol Sales.

#### ORDINANCE NO. 6252

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 5-01-04, 5-01-13 and 5-01-29 AND TO REPEAL SECTIONS 5-01-14 AND 5-01-14.1 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO SUNDAY ALCOHOL SALES.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

No one appeared to provide testimony.

Commissioner Askvig made a motion to adopt Ordinance 6252. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

10. The President of the Board of City Commissioners announced the hour had arrived for the PUBLIC HEARING for approval of the waste collection franchise application for 3WI LLC (dba Great American Roll Off).

Jeff Heintz, Public Works Service Operations Director, gave background on this agenda item.

No one appeared to provide testimony.

Commissioner Marquardt made a motion to approve the waste collection franchise. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

11. The Board of City Commissioners considered the request for approval from the Community Development Department for the following items relating to Eagle Crest Seventh Addition:

- PUBLIC HEARING on Ordinance 6253, a request for the annexation of Eagle Crest Seventh Addition.
- PUBLIC HEARING on Ordinance 6254, a request for a zoning change from the A-Agriculture zoning district to the R5-Residential zoning district for Eagle Crest Seventh Addition.
- Final plat of Eagle Crest Seventh Addition.

Kim Lee, Planning Manager, appeared before the Board and gave background information on this item.

No one appeared to provide testimony.

Commissioner Askvig asked when we create the district to create the streets, how much of that will be bought down by special assessments. Gabe Schell, City Engineer, appeared and said typically there would be no buydown of special assessments because that is born by the property owner purchasing the property.

Commissioner Guy made a motion to adopt Ordinances 6253 and 6254 and approve the final plat request. Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

12. The Board of City Commissioners considered the request for approval from the Administration Department, at the direction of Commissioner Marquardt, to consider rescinding the denial of the appeal for three variances at 717 North Mandan Street.

Commissioner Marquardt gave background information on this item. She owns the property and is wondering why she can't build on it. She's building something she can afford and it will fit into the look of the neighborhood. He said he was wrong to vote as he did previously and should've taken into consideration her property rights.

Commissioner Marquardt then made a motion to rescind the decision to uphold the denial of the three variances. Commissioner Askvig asked for clarification of the motion. Charlie Whitman, City Attorney, gave a brief description and said we would discuss again the appeal before a vote was made. The motion died for the lack of a second.

13. The Board of City Commissioners considered the request for approval from the Community Development Department for Renaissance Zone designation for the purchase of a primary residence. Maragos Residence is located at 100 West Broadway Avenue Unit 306 in the Broadway Centre Building.

Daniel Nairn, Planner, appeared before the Board. The applicants, Bruce and Traci Maragos, are requesting Renaissance Zone designation for the purchase of a primary resident, Unit 306, in the Broadway Centre building. Their unit has 2,396 square feet and they will use the condominium as their full-time residence. The Board has already approved five other condominiums as primary residences as Renaissance Zone designations at this location to date. The applicants would be eligible for an estimated \$25,000 in property tax exemption and \$5,000 in state income tax exemption over five years.

The Renaissance Zone Authority held a public hearing on April 13, 2017, and no members of the public spoke at the hearing. Based on the findings contained in the staff report, the Renaissance Zone Authority unanimously recommended approval of the designation of the purchase of a primary residential condominium in the building at 100 West Broadway Avenue by Bruce and Traci Maragos as a Renaissance Zone project, a 100% property tax exemption on the value of the condominium and an exemption up to \$10,000 from personal state income tax for five years beginning with the date of occupancy.

Commissioner Askvig said the Renaissance Zone Authority has discussed improving the verification of residency for this request. It is a designation that city staff is looking at strengthening that requirement for the five-year period because the state doesn't have a good definition of primary residence.

Commissioner Askvig made a motion to approve the request. Commissioner Oban seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Guy, Oban, and President Seminary. Nays: Commissioner Marquardt, the motion carried.

14. The Board of City Commissioners considered the request for approval from the Engineering Department for approval of the following items:

- Award of project subject to the concurrence of the Bismarck Parks and Recreation District.

ND Department of Transportation (NDDOT) received bids for this project on March 17, 2017. The low bid was submitted by Strata Corporation in the amount of \$177,611.73. The City's estimated share is \$38,861.73, with federal funds obligated for this project capped at 80.93 percent of the eligible project cost up to a maximum of \$138,750.00.

Per the Companion Agreement between the City of Bismarck and BPRD for this shared use path project approved on January 24, 2017, BPRD is responsible to provide the local matching dollars. BPRD Executive Director Randy Bina has indicated he will place the matter of BPRD concurrence in the award of this project on his board's agenda for consideration at its April 20, 2017 meeting.

Staff requests approval of the award of this project to Strata Corporation in the amount of \$177,611.73, subject to the concurrence of the Bismarck Parks and Recreation District.

Commissioner Askvig made a motion to approve the request. Commissioner Oban seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

- Approval of the Development Agreement with Vetter & Wald, LLLP for Northwest Tire site.

The owner of the property, Vetter & Wald, LLLP, located at 3601 French Street is currently developing this parcel. Currently the portion of Calgary Avenue adjacent to this parcel is not constructed. City policy requires that adjacent roadways and utilities need to be installed prior to developing, however the policy also recommends not construct a roadway without at least 50% of the adjoining properties petitioning.

The City does not have any petitions to construct this portion of Calgary Avenue. Previously, the property owner to the north of Calgary Avenue successfully protested the Street Improvement District to construct Calgary Avenue. Therefore, staff has agreed that development should be permitted to occur provided that this property owner, Vetter & Wald, LLLP provide a petition for the improvement along with a commitment not to protest a street improvement district for Calgary Avenue at some future date. This development agreement outlines the above (copy included in the materials for this item in the agenda packet).

It is important to note that the property has the ability to connect to utilities as utilities are installed along both French Street and Calgary Avenue. Additionally, the property will access off French Street, which has been constructed.

Commissioner Oban made a motion to approve the request. Commissioner Askvig seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

15. The Board of City Commissioners considered the request for approval from the Public Works Service Operations Department for the following items:

- Award the bids for the collection and disposal of household hazardous waste and adopt the disposal fees for non-residents at the HHW and Electronic Recycling Center at the Bismarck Municipal Landfill.
- Adopt the electronic recyclable items disposal fees for non-residents at the HHW and Electronic Recycling Center at the Bismarck Municipal Landfill.

Commissioner Askvig made a motion to award the bid to Clean Harbors Environmental Services, Inc. for 2017 for \$49,493.74 and adopt the new pricing for disposal fees charged at the landfill to non-residents and award the bid to Retrofit for electronic recycling for \$115,708.88. Commissioner Guy seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

16. The Board of City Commissioners considered the request for approval from the Public Works Utility Operations Department to limit cost for residential sewer line work that is paid by the utility fund and assessed to the property.

Commissioner Guy made a motion to approve Option 2 as requested by staff. Commissioner Marquardt seconded the motion. Upon roll call, the commissioners voted as follows: Ayes: Commissioners Askvig, Marquardt, Guy, Oban, and President Seminary. Nays: None, the motion carried.

17. The Board of City Commissioners considered other business.

Commissioner Guy stated the Bismarck Veteran's Memorial Public Library recently received the 2017 North Dakota Star Library Award.

Having completed the items on the agenda, President Seminary asked if there was any further business for this meeting. There being none, the meeting was declared adjourned at 8:30 p.m.